Originally Filed: August 19, 2022

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

AMO DEVELOPMENT, LLC, AMO MANUFACTURING USA, LLC and AMO SALES AND SERVICE, INC.,)))) REDACTED - PUBLIC VERSION
Plaintiffs, v. ALCON VISION, LLC, ALCON LABORATORIES, INC. and ALCON RESEARCH, LLC,	C.A. No. 20-842 (CFC) (JLH)
Defendants.)
ALCON INC., ALCON RESEARCH, LLC, and ALCON VISION, LLC, Counterclaim Plaintiffs,)))
v. AMO DEVELOPMENT, LLC, AMO MANUFACTURING USA,))))
LLC, AMO SALES AND SERVICE, INC. and JOHNSON & JOHNSON SURGICAL VISION, INC.,)))
Counterclaim Defendants.)

CONCISE STATEMENT OF FACTS IN SUPPORT OF PLAINTIFFS'

<u>MOTION FOR SUMMARY JUDGMENT</u>

TABLE OF EXHIBITS

Exhibit	Description of Document
1	Collection of Employment and Consulting Agreements
2	Transcript of February 25, 2022 Deposition of Biren Mehta
3	Transcript of November 16, 2021 Deposition of Peter Goldstein
4	Transcript of January 10, 2022 Deposition of Kostadin Vardin
5	Transcript of February 23, 2022 Deposition of Imre Hegedus
6	Opening Expert Report of Douglas C. Schmidt, PhD.
7	Certification of Incorporation of Abbott Medical Optics, Inc.
8	IntraLase Meeting Minutes Dated September 16, 2022
9	Draft Software Requirements Specification for IntraLase FS2 Laser
10	Opening Expert Report of Stephen B. Wicker, PhD.
11	Opening Expert Report of Karen M. Becker, PhD.
12	510(k) Premarket Notification for IntraLase Fusion Laser
13	Transcript of March 2, 2022 Deposition of Lynda Jeffcoat
14	Transcript of January 28, 2022 Deposition of Carlos Suarez
15	Transcript of February 16, 2022 Deposition of John Suzuki
16	IntraLase FS Laser Operator's Manual
17	Certificate of Registration for "IntraLase FS Laser Operator's Manual"

18	Merger Agreement for Advanced Medical Optics, Inc. and IntraLase
	Corp.
19	Certificate of Conversion of IntraLase Corp. to AMO Development,
	LLC
20	Alcon's Fourth Supplemental Response to J&J's Interrogatory No. 5
21	Stock Purchase Agreement between Abbott Laboratories and Johnson
	& Johnson
22	510(k) Premarket Notification for the iFS Laser System
23	Certificate of Registration for "iFS Laser System 510(k) Premarket
	Notification (K073404)"
24	Certificate of Registration for "iFS Laser System 510(k) Premarket
	Notification (K063682)"
25	Collection of Certificates of Registration for "IntraLase FS Model
	2/Model 3 Software"
26	Assignment of Copyright from Johnson & Johnson Surgical Vision,
	Inc. to AMO Development, LLC
27	AMO Meeting Minutes Dated July 20, 2009
28	Software Release Audit for the iFS Laser System
29	Offer of Employment from Advanced Medical Optics Development,
	LLC to Brent Schellhase
30	Certificate of Merger of Advanced Medical Optics and Abbott
	Laboratories

CONCISE STATEMENT OF FACTS

I. PARTIES

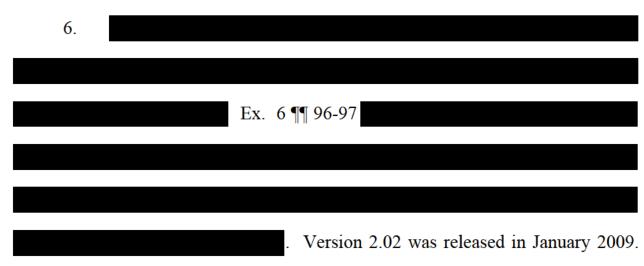
- 1. AMO Development, LLC ("AMO Development"), a subsidiary of Johnson & Johnson Surgical Vision, Inc. ("JJSV"), is among the Plaintiffs (collectively, "J&J").
- 2. AMO Development was formerly IntraLase Corp. ("IntraLase"), until 2007 when it was acquired by Advanced Medical Optics, Inc. ("AMO"). Ex. 18 at JJSV 00020894; Ex. 19 at JJSV 00022742.
- 3. AMO became Abbott Medical Optics, Inc. in 2009 and then JJSV in 2018. Ex. 30 at JJSV_00022721; Ex. 7 at JJSV_00017395; Ex. 21 at JJSV_00017400.

II. THE COPIED IFS SOURCE CODE

A. Versions and Copyright Registrations

- 4. IntraLase developed the FS Model 2 and Model 3 devices and the iFS Advanced Femtosecond Laser device (collectively, "iFS"), which are femtosecond laser systems used for LASIK eye surgery. Ex. 22 at 5; Ex. 12 at 4.
- 5. In 2020, AMO Development registered copyrights in the computer programs that operate the iFS systems, including those listed below. Ex. 25 at JJSV 00021188-1223.

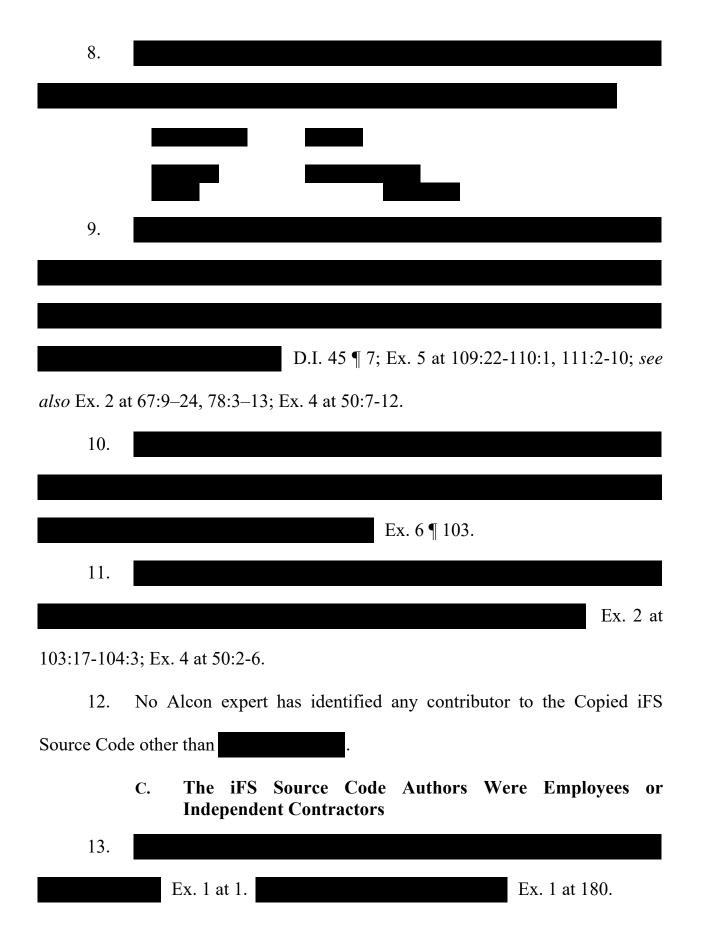
iFS Software Version	Copyright Reg. No.
1.00	TX 8-892-568
1.01	TX 8-892-570
1.02	TX 8-892-579
1.03	TX 8-892-616
1.04	TX 8-892-571
1.05	TX 8-892-576
1.06	TX 8-892-583
1.07	TX 8-892-582
1.08	TX 8-892-586
1.10	TX 8-892-565
1.12	TX 8-892-585
2.02	TX 8-892-564

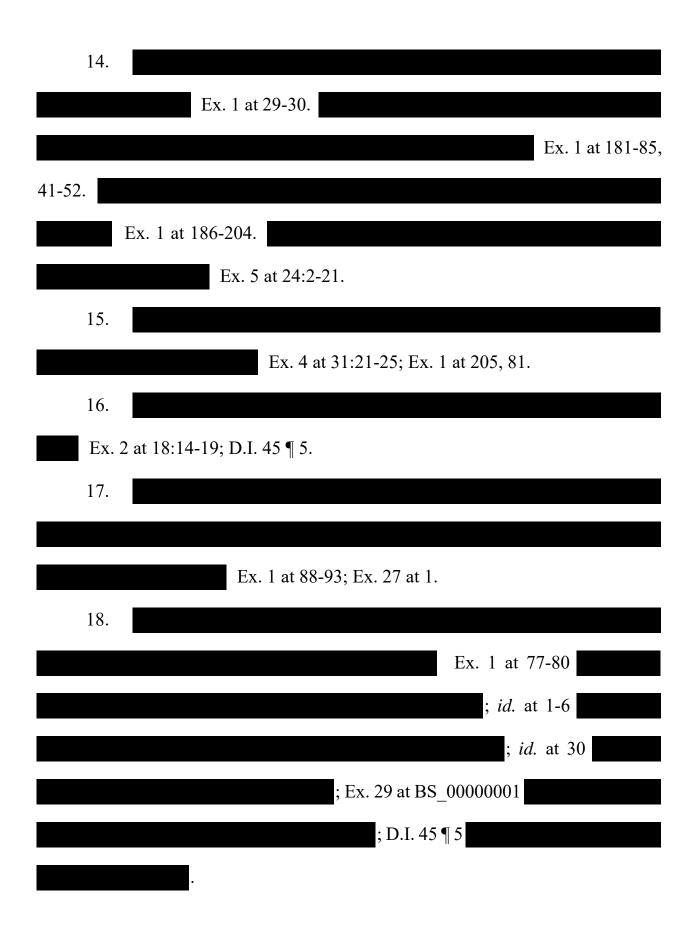


Ex. 25 at JJSV_00021210; Ex. 28 at JJSV_00558716.

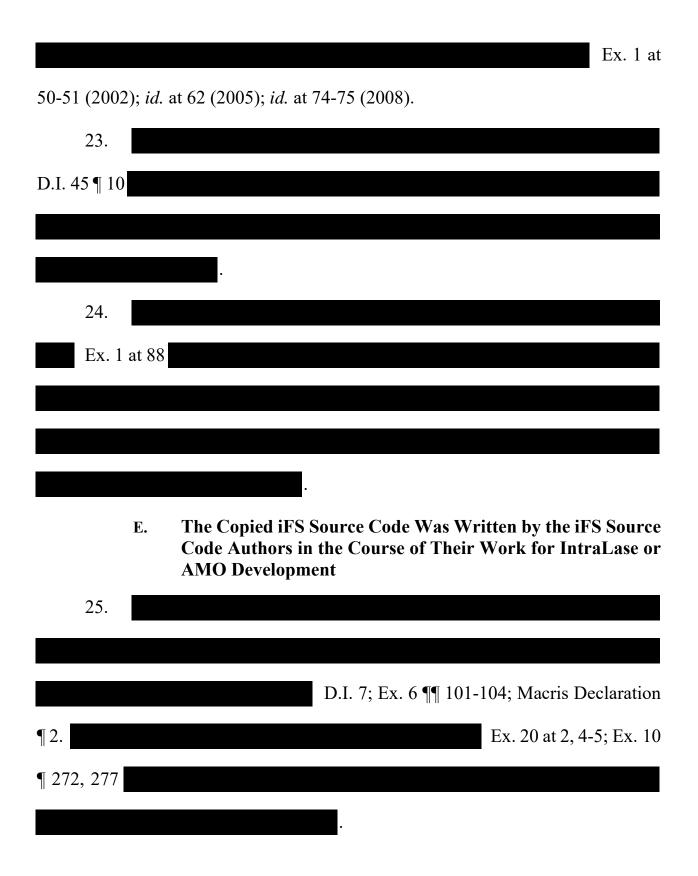
B. Authors of the Copied iFS Source Code

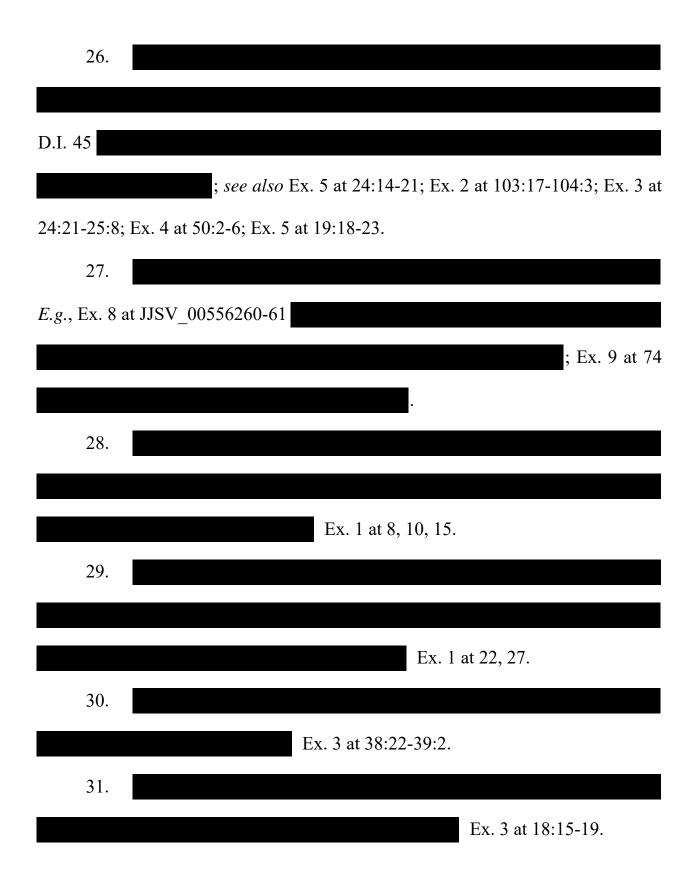


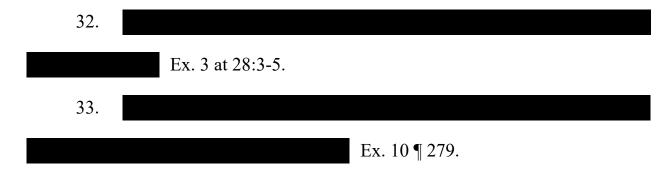




The iFS Source Code Authors Assigned Their Rights D. 19. Ex. 1 at 8-9. 20. Ex. 1 at 81-82. 21. Ex. 1 at 36-37. 22.

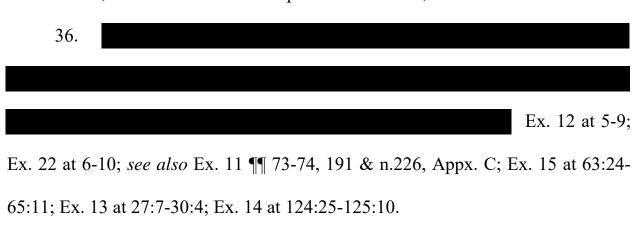




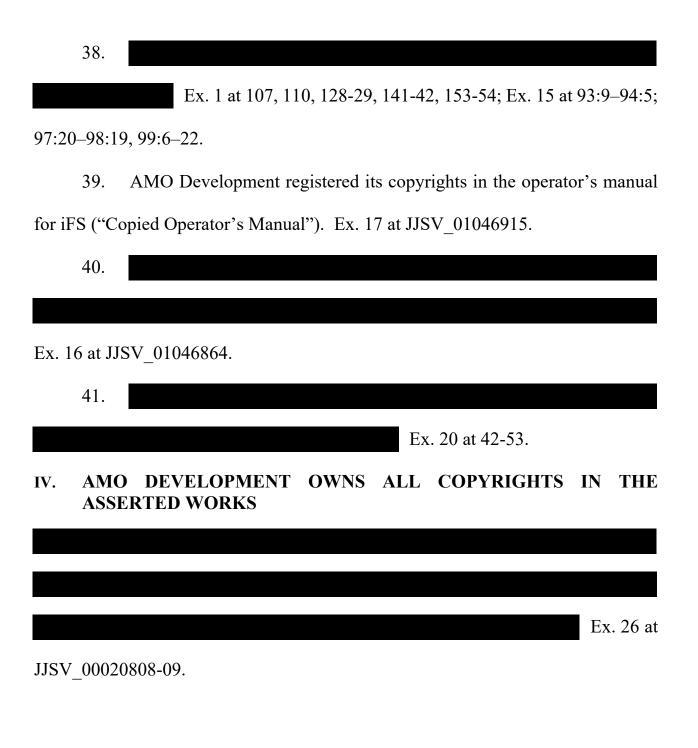


III. COPIED FDA SUBMISSIONS AND OPERATOR'S MANUAL

- 34. IntraLase submitted 510(k) applications (numbered K063682 and K073404) to the FDA in connection with obtaining regulatory approval for the iFS systems, which included iFS technical documentation (the "Copied FDA Submissions").
- 35. AMO Development registered its copyrights in the Copied FDA Submissions, which have never been published. Ex. 23; Ex. 24.



37. Ex. 11 ¶ 74; Ex. 1 at 171-73; Ex. 13 at 9:10-13:1; Ex. 14 at 18:15-17.



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August 19, 2022

CERTIFICATION

This concise statement of facts complies with the type and word limitation in Paragraph 24(f) of the Scheduling Order (D.I. 61) because it is written in 14-point Times New Roman font and contains 1,737 words according to the word count feature of Microsoft Word and thus does not exceed the 1,736 word limit set forth in the Scheduling Order.

/s/ Brian P. Egan

Brian P. Egan (#6227)

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 2, 2022, upon the following in the manner indicated:

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